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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,490	01/17/2001	Mohammad Reza Baraty	(81609-5)	7197
20995	7590	11/05/2003	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			WACHSMAN, HAL D	
2040 MAIN STREET			ART UNIT	PAPER NUMBER
FOURTEENTH FLOOR				2857
IRVINE, CA 92614			DATE MAILED: 11/05/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/764,490	BARATY, MOHAMMAD REZA
	Examiner Hal D Wachsman	Art Unit 2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 May 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-91 is/are pending in the application.
- 4a) Of the above claim(s) 52-91 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-51 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 April 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election without traverse of species I (claims 1-51) in Paper No. 10 is acknowledged.
2. Claims 52-91 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species , there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 10.
3. The drawings have been approved by the Draftspersons.
4. The Abstract is objected to because it is greater than 150 words in length.
Appropriate correction is required.
5. The Examiner respectfully notes a grammatical error on page 9, line 1, of the specification: "...there is provide a computer...". Also there is a period missing at the end of the last paragraph on page 29 of the specification.
6. The use of the trademark Bluetooth (specification page 27) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

7. Claims 1-33, 39, 41-43 and 48 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 1, line 3, cites "receiving and storing a usage range representation" but exactly in what is the usage range representation being stored. This same type of problem also occurs in claim 15, line 5, claim 16, line 4, claim 33, line 4.

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Claim 4, line 1, cites "wherein receiving comprises..." however exactly which receiving step is being referred to here ? This same type of problem also occurs in claim 5, line 1, claim 6, line 1. Claim 16, line 6, cites "said usage" however the antecedent basis is "utility service usage". This same type of problem also occurs in claim 17, line 11. Claim 25, line 1, cites "data storage device" which should be "said data storage device". Claim 39 cites "said representation" however the antecedent basis is "usage range representation". This same type of problem also occurs in claim 41 and claim 48. Claim 42, lines 3-4, cite "said utility service at said load" which lacks antecedent basis. This same type of problem also occurs in claim 42, line 6, claim 43, lines 3-4 and 6. The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1-35, 37-44 and 46-51 are rejected under 35 U.S.C. 102(e) as being anticipated by Nierlich et al. (6,519,509).

As per claim 1, Nierlich et al. (see at least abstract) disclose "receiving a representation of a utility service usage at a load". Nierlich et al. (col. 6 lines 12-24, col. 9 lines 1-10, col. 16 lines 48-52) disclose "receiving and storing a usage range representation". Nierlich et al. (Abstract, col. 6 lines 10-24, col. 9 lines 24-28, col. 10 lines 12-14, col. 11 lines 37-52, col. 12 lines 14-19, col. 17 lines 14-18) disclose "producing a control signal for use by a utility service interrupter...operable to cause said utility service interrupter to interrupt a supply of said utility service to said load".

As per claim 2, Nierlich et al. (col. 11 lines 40-52, col. 12 lines 14-19) disclose the feature of this claim.

As per claim 3, Nierlich et al. (col. 6 lines 12-17, col. 10 lines 48-58) disclose the feature of this claim.

As per claim 4, Nierlich et al. (Abstract, col. 3 lines 3-8) disclose the feature of this claim.

As per claim 5, Nierlich et al. (col. 3 lines 7, 8, col. 4 lines 6-12, col. 6 lines 12-17, col. 10 lines 48-58, col. 11 lines 53-61, col. 12 lines 27-40) disclose the feature of this claim.

As per claim 6, Nierlich et al. (see at least abstract) disclose the feature of this claim.

As per claim 7, Nierlich et al. (col. 6 lines 12-24, col. 9 lines 1-10, col. 16 lines 48-52) disclose the feature of this claim.

As per claim 8, Nierlich et al. (Abstract, col. 6 lines 10-24, col. 9 lines 24-28, col. 10 lines 12-14, col. 11 lines 37-52, col. 12 lines 14-19, col. 17 lines 14-18) disclose the feature of this claim.

As per claim 9, Nierlich et al. (Abstract, col. 6 lines 10-24, col. 9 lines 24-28, col. 10 lines 12-14, col. 11 lines 37-52, col. 12 lines 14-19, col. 17 lines 14-18) disclose the feature of this claim.

As per claim 10, Nierlich et al. (Abstract, col. 6 lines 52-58) disclose the feature of this claim.

As per claim 11, Nierlich et al. (Abstract, figures 13, 24) disclose the feature of this claim.

As per claim 12, Nierlich et al. (col. 6 lines 66, 67, col. 7 lines 1-4, 9-15, col. 8 lines 1-9, 35-45, col. 11 lines 37-61, col. 16 lines 57-62) disclose the feature of this claim.

As per claim 13, Nierlich et al. (figure 23, col. 7 lines 1-4, 9-12, col. 8 lines 1-9, 33-45) disclose the feature of this claim.

As per claim 14, Nierlich et al. (see at least abstract) disclose the feature of this claim.

As per claim 15, Nierlich et al. (see at least abstract) disclose "receive a representation of a utility service usage at a load". Nierlich et al. (col. 6 lines 12-24, col. 9 lines 1-10, col. 16 lines 48-52) disclose "receive and store a usage range representation". Nierlich et al. (Abstract, col. 6 lines 10-24, col. 9 lines 24-28, col. 10 lines 12-14, col. 11 lines 37-52, col. 12 lines 14-19, col. 17 lines 14-18) disclose "produce a control signal for use by a utility service interrupter...operable to cause said utility service interrupter to interrupt a supply of said utility service to said load".

As per claim 16, Nierlich et al. (see at least abstract) disclose "receive a representation of a utility service usage at a load". Nierlich et al. (col. 6 lines 12-24, col. 9 lines 1-10, col. 16 lines 48-52) disclose "receive and store a usage range representation". Nierlich et al. (Abstract, col. 6 lines 10-24, col. 9 lines 24-28, col. 10 lines 12-14, col. 11 lines 37-52, col. 12 lines 14-19, col. 17 lines 14-18) disclose "produce a control signal for use by a utility service interrupter...operable to cause said utility service interrupter to interrupt a supply of said utility service to said load".

As per claim 17, Nierlich et al. (Abstract, col. 6 lines 12-24, col. 9 lines 1-10, col. 16 lines 48-52) disclose "a communications device operable to receive a representation of utility service usage....and operable to receive a usage range representation". Nierlich et al. (col. 6 lines 12-24, col. 9 lines 1-10, col. 16 lines 48-52) disclose "a data storage device operable to store said usage range representation". Nierlich et al. (Abstract, col. 6 lines 10-24, col. 9 lines 24-28, col. 10 lines 12-14, col. 11

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lines 37-52, col. 12 lines 14-19, col. 17 lines 14-18) disclose "a controller, in communication with said communications device and said data storage device...to produce a control signal for use by a utility service interrupter when said usage is outside of said usage range representation...to cause said utility service interrupter to interrupt a supply of said utility service to said load".

As per claim 18, Nierlich et al. (col. 7 lines 16-46) disclose the feature of this claim.

As per claim 19, Nierlich et al. (see at least abstract) disclose the feature of this claim.

As per claim 20, Nierlich et al. (Abstract, col. 6 lines 10-24, col. 9 lines 24-28, col. 10 lines 12-14, col. 11 lines 37-52, col. 12 lines 14-19, col. 17 lines 14-18) disclose the feature of this claim.

As per claim 21, Nierlich et al. (col. 6 lines 12-17, col. 10 lines 48-58) disclose the feature of this claim.

As per claim 22, Nierlich et al. (Abstract, col. 3 lines 3-8) disclose the feature of this claim.

As per claim 23, Nierlich et al. (col. 3 lines 7, 8, col. 4 lines 6-12, col. 6 lines 12-17, col. 10 lines 48-58, col. 11 lines 53-61, col. 12 lines 27-40) disclose the feature of this claim.

As per claim 24, Nierlich et al. (Abstract, col. 6 lines 12-24, col. 9 lines 1-10, col. 16 lines 48-52) disclose the feature of this claim.

As per claim 25, Nierlich et al. (col. 6 lines 12-24, col. 9 lines 1-10, col. 16 lines 48-52) disclose the feature of this claim.

As per claim 26, Nierlich et al. (Abstract, col. 6 lines 10-24, col. 9 lines 24-28, col. 10 lines 12-14, col. 11 lines 37-52, col. 12 lines 14-19, col. 17 lines 14-18) disclose the feature of this claim.

As per claim 27, Nierlich et al. (Abstract, col. 6 lines 10-24, col. 9 lines 24-28, col. 10 lines 12-14, col. 11 lines 37-52, col. 12 lines 14-19, col. 17 lines 14-18) disclose the feature of this claim.

As per claim 28, Nierlich et al. (Abstract, col. 6 lines 52-58) disclose the feature of this claim.

As per claim 29, Nierlich et al. (Abstract, figures 13, 24, col. 4 lines 51-56, col. 7 lines 1-4, 9-12) disclose the feature of this claim.

As per claim 30, Nierlich et al. (col. 6 lines 66, 67, col. 7 lines 1-4, 9-15, col. 8 lines 1-9, 35-45, col. 11 lines 37-61, col. 16 lines 57-62) disclose the feature of this claim.

As per claim 31, Nierlich et al. (figure 23, col. 4 lines 51-56, col. 7 lines 1-4, 9-12, col. 8 lines 1-9, 33-45) disclose the feature of this claim.

As per claim 32, Nierlich et al. (see at least abstract) disclose the feature of this claim.

As per claim 33, Nierlich et al. (see at least abstract) disclose "a receiving means for receiving a representation of a utility service usage at a load". Nierlich et al. (col. 6 lines 12-24, col. 9 lines 1-10, col. 16 lines 48-52) disclose "a receiving and

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storing means for receiving and storing a usage range representation". Nierlich et al. (Abstract, col. 6 lines 10-24, col. 9 lines 24-28, col. 10 lines 12-14, col. 11 lines 37-52, col. 12 lines 14-19, col. 17 lines 14-18) disclose the producing means as described in the last 5 lines of the claim.

As per claim 34, Nierlich et al. (Abstract, col. 6 lines 7-24) disclose the receiving step. Nierlich et al. (Abstract, col. 6 lines 66, 67, col. 7 lines 1-4, col. 10 lines 12-14, col. 11 lines 37-52) disclose the interrupting step.

As per claim 35, Nierlich et al. (Abstract, col. 6 lines 10-24, col. 9 lines 24-28, col. 10 lines 12-14, col. 11 lines 37-52, col. 12 lines 14-19, col. 17 lines 14-18) disclose the feature of this claim.

As per claim 37, Nierlich et al. (col. 4 lines 38-50, col. 8 lines 39, 40, col. 10 lines 12-14, col. 12 lines 14-19) disclose the feature of this claim.

As per claim 38, Nierlich et al. (see at least abstract) disclose the feature of this claim.

As per claim 39, Nierlich et al. (see at least abstract) disclose the feature of this claim.

As per claim 40, Nierlich et al. (see at least abstract) disclose the feature of this claim.

As per claim 41, Nierlich et al. (see at least abstract) disclose the feature of this claim.

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As per claim 42, Nierlich et al. (Abstract, col. 6 lines 7-24) disclose the receive step. Nierlich et al. (Abstract, col. 6 lines 66, 67, col. 7 lines 1-4, col. 10 lines 12-14, col. 11 lines 37-52) disclose the interrupt step.

As per claim 43, Nierlich et al. (Abstract, col. 6 lines 7-24) disclose the receive step. Nierlich et al. (Abstract, col. 6 lines 66, 67, col. 7 lines 1-4, col. 10 lines 12-14, col. 11 lines 37-52) disclose the interrupt step.

As per claim 44, Nierlich et al. (Abstract, col. 6 lines 7-24) disclose "a communications device...to receive a control signal...usage of said utility service...is outside of a usage range representation". Nierlich et al. (Abstract, col. 6 lines 66, 67, col. 7 lines 1-4, col. 10 lines 12-14, col. 11 lines 37-52) disclose "a utility service interrupter...operable to interrupt the supply of said utility service to said load in response to said control signal".

As per claim 46, Nierlich et al. (col. 4 lines 38-50, col. 8 lines 39, 40, col. 10 lines 12-14, col. 12 lines 14-19) disclose the feature of this claim.

As per claim 47, Nierlich et al. (see at least abstract) disclose the feature of this claim.

As per claim 48, Nierlich et al. (see at least abstract) disclose the feature of this claim.

As per claim 49, Nierlich et al. (see at least abstract) disclose the feature of this claim.

As per claim 50, Nierlich et al. (see at least abstract) disclose the feature of this claim.

As per claim 51, Nierlich et al. (Abstract, col. 6 lines 7-24) disclose "a receiving means...indicating that a usage of said utility service...is outside of a usage range representation". Nierlich et al. (Abstract, col. 6 lines 66, 67, col. 7 lines 1-4, col. 10 lines 12-14, col. 11 lines 37-52) disclose "an interrupting means for interrupting the supply of said utility service...in response to said control signal".

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 36 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nierlich et al. (6,519,509) in view of Flig et al. (4,841,287).

As per claims 36 and 45, Flig et al. (see at least abstract) teach the feature of each of these claims. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Flig et al. to the invention of Nierlich et al. as specified above because Nierlich et al. teaches electrical utility service interruption just as is accomplished in Flig et al. which can cut-off not only electrical utility service but gas and water utilities as well.

12. The following references are cited as being art of general interest: Butt et al. which disclose a programmable load controller, Mitchell which discloses a portable

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excess water usage control and alarm system, O'Donnell et al. which disclose a rate-based load shed module, Ehlers et al. which disclose an energy management system and Thomas et al. which disclose an annunciator panel display.

13. No claims are allowed.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is 703-305-9788. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


Hal D Wachsman
Primary Examiner
Art Unit 2857

HW
October 31, 2003



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EXAMINER

ART UNIT PAPER

13

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Hal D Wachsman
Primary Examiner
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